

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
ELKINS**

**WILTON FREDERICK BLAND,**

Plaintiff,

v.

**CIVIL ACTION NO. 2:15-CV-14  
(BAILEY)**

**LESTER THOMPSON, Unit Manager, B-Unit,  
ROBIN MILLER, Associate Warden of Programs,  
MARVIN PLUMLEY, Warden,  
HUTTONSVILLE CORRECTIONAL CENTER,**

Defendants.

**ORDER ADOPTING REPORT AND RECOMMENDATION**

On this day, the above-styled matter came before this Court for consideration of the Report and Recommendation of United States Magistrate Judge Robert W. Trumble [Doc. 4]. Pursuant to this Court's Local Rules, this action was referred to Magistrate Judge Trumble for submission of a proposed report and a recommendation ("R & R"). Magistrate Judge Trumble filed his R & R on February 24, 2015, wherein he recommends this Court dismiss the plaintiff's Motion for Movement, which Magistrate Judge Trumble construed as a Petition for Writ of Mandamus, with prejudice.

Pursuant to 28 U.S.C. § 636 (b)(1)(c), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. ***Thomas v. Arn***, 474 U.S. 140,

150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); see **Snyder v. Ridenour**, 889 F.2d 1363, 1366 (4th Cir. 1989); **United States v. Schronce**, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Trumble's R & R were due within fourteen (14) days of receipt, pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b). The docket reflects that service was accepted on February 25, 2015. [Doc. 5]. No objections have been filed. Accordingly, this Court will review the R & R for clear error.

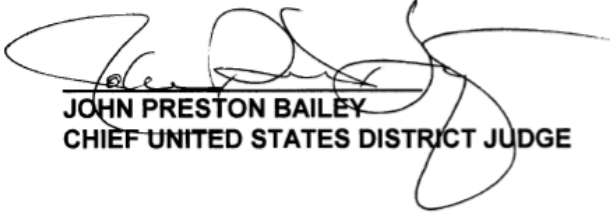
The R&R recommends, and this Court agrees that plaintiff's claim is frivolous. The plaintiff requests that this Court compel the West Virginia Department of Corrections to move him to another facility so that he and another inmate may work together on a lawsuit. As discussed in the R & R, the plaintiff fails to set forth facts indicating that he has a right to a writ of mandamus, or that this Court has the authority to issue such writ.

Upon careful review of the above, it is the opinion of this Court that the **Report and Recommendation [Doc. 4]** should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. This Court **ORDERS** that the plaintiff's Petition for Writ of Mandamus **[Doc. 1]** be **DISMISSED WITH PREJUDICE**, and Plaintiff's Motion for Appointment of Counsel **[Doc. 2]** be **DISMISSED** as **MOOT**. This Court further **DIRECTS** the Clerk to **STRIKE** this case from the active docket of this Court and enter judgment in this matter.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to any counsel of record and to mail a copy to the *pro se* petitioner.

**DATED:** March 16, 2015.



**JOHN PRESTON BAILEY**  
**CHIEF UNITED STATES DISTRICT JUDGE**